

In the Matter of)
)
City of Aurora, Illinois) File No. 0007195181
)
Request for Waiver of Section 90.242(b)(4)(iv))
of the Commission's Rules)

Released: February 22, 2017

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notes its susceptibility to lengthy power and communication outages from severe weather because power, telephone and cable lines are above ground in many areas of the city.⁹

3. Aurora seeks to ensure the TIS has sufficient signal strength to reach the entire city population to deliver locally focused emergency information to residents and travelers.¹⁰ Aurora reports that its TIS only has the signal strength to reach approximately two of the 46 square miles of the city.¹¹ The City states that it “must choose between the coverage that will result from installing multiple, synchronized TIS locations to attempt full coverage, or to request a waiver of field intensity so that a single TIS station with relaxed signal intensity limitations could cover the city.”¹² The City states that “[e]nforcement of rule 90.242(b)(4)(iv) would also have the unintended effect of increasing the cost of providing the expanded service to the public because it is estimated that two or three TIS stations - and the addition of synchronization equipment would be required to achieve the coverage - roughly tripling the cost to service the same area.”¹³ In support of its request for waiver, the City asserts that its TIS station can operate without causing interference to standard broadcast stations even with relaxation of the field strength intensity distance limitation.¹⁴ Aurora states that a “grant of waiver of field intensity would enable a single City TIS transmitter to provide travel and emergency information to our public, ... and provide vital information to motorists no matter where in the city they may be.”¹⁵

III. DISCUSSION

4. Section 1.925(b)(3) of the Commission’s rules provides that: “the Commission may grant a request for waiver if it is shown that: (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.”¹⁶ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.¹⁷ Based on the information before us, we are persuaded that Aurora has demonstrated that a waiver of Section 90.242(b)(4)(iv) is warranted.

5. When the Commission adopted the TIS rules, it stated that TIS “is intended to serve a 3 km zone with generally repetitive information pertinent to travelers.”¹⁸ In limiting the TIS coverage zone, the Commission primarily was motivated to minimize the potential for TIS to cause interference to

⁹ *Id.*

¹⁰ *Id.* at 1.

¹¹ *Id.*

¹² *Id.* at 2.

¹³ Waiver Justification at 1.

¹⁴ File No. 0007195181, attached “WPZZ-656 Waiver Request” at 1.

¹⁵ Letter at 2.

¹⁶ 47 CFR § 1.925(b)(3).

¹⁷ *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969) (*WAIT Radio*), *aff’d*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

¹⁸ Amendment of Parts 2 and 89 of the Rules to Provide for the Use of Frequencies 530, 1606, and 1612 kHz by Stations in the Local Government Radio Services for the Transmission of Certain Kinds of Information to the Traveling Public, Docket No. 20509, *Report and Order*, 67 F.C.C.2d 917, 925 para. 27 (1977) (*TIS Report and Order*).

broadcast stations.¹⁹ The Commission therefore adopted rules to limit the measured field strength at 1.5 kilometers from the transmitting site, limit the maximum antenna height, and limit the transmitter output power to ten watts.²⁰ The Commission stated that “considering the likelihood of interference to broadcast stations, these steps should prevent interference situations from developing without unduly burdening TIS applicants.”²¹

6. In accordance with our TIS spacing rules,²² Aurora’s TIS transmitter is not located within 130 kilometers of the predicted daytime 0.5 mV/m contour of any co-channel AM station or within 15 kilometers of the predicted daytime 0.5 mV/m of any first adjacent channel AM station. The spacing between the Aurora TIS transmitter and the closest co-channel broadcast station, KCNZ, Cedar Falls, Iowa, is 349.4 kilometers; the spacing to the closest first adjacent channel broadcast station, WSJP, Sussex, Wisconsin on 1640 kHz, is 146.0 kilometers, giving us confidence that the extension of the 2 mV/m contour of the TIS station will not result in harmful interference to these broadcast stations, consistent with the underlying purpose of Section 90.242(b)(4)(iv). Therefore, we find that the underlying purpose of the rule would not be served or would be frustrated by application to the present case.

7. We find that the proposed expansion of Aurora’s TIS service area while keeping output power at ten watts would enable the City to better inform travelers of road and travel conditions throughout city and to alert the traveling public more effectively in the event of emergencies stemming from hazards to which Aurora is susceptible. Based on the record before us, we find that a grant of Aurora’s request for waiver would serve the public interest. Therefore, we conclude that Aurora satisfies the Commission’s waiver criteria.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Section 1.925 of the Commission’s rules, 47 CFR § 1.925, that the Request for Waiver of the City of Aurora, Illinois, filed on March 21, 2016, IS GRANTED.

9. IT IS FURTHER ORDERED, that application File No. 0007195181, filed by the City of Aurora, Illinois, SHALL BE PROCESSED in accordance with this Order and the Commission’s rules.

10. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission’s rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Acting Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

¹⁹ *Id.* at 924 para. 25.

²⁰ *Id.* at 926 para. 31.

²¹ *Id.* at 924 para. 25.

²² 47 CFR § 90.242(a)(2).